

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MONICA POSTON,

Plaintiff,

v.

20-CV-1379-LJV-MJR
DECISION & ORDER

SHARONNDA BAXTER, *et al.*,

Defendants.

On September 27, 2020, the plaintiff, Monica Poston, filed this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, Docket Item 1, and on November 10, 2020, this Court referred this case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B), Docket Item 10. On March 29, 2021, Poston filed a notice of acceptance of defendant Sharonnda Baxter's offer of judgment under Federal Rule of Civil Procedure 68. Docket Item 18. The Clerk of the Court entered an interim judgment against Ms. Baxter on April 6, 2021. Docket Item 19.

The offer of judgment also included reasonable attorneys' fees, see Docket Item 18, and on April 12, 2021, Poston moved to recover attorneys' fees and costs, Docket Item 20. Ms. Baxter did not respond to that motion, and she advised Judge Roemer that she did not intend to do so.¹ Docket Item 22 at 3.

¹ Judge Roemer nevertheless considered two objections from Ms. Baxter that the plaintiff raised in her motion. See Docket Item 22; Docket Item 20 at 1-2.

On February 22, 2022, Judge Roemer issued a Report and Recommendation (“R&R”) finding that the plaintiff’s motion should be granted and that Poston should be awarded \$5,290 in attorneys’ fees and \$400 in costs. Docket Item 22. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge’s recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Roemer’s R&R as well as the submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Roemer’s recommendation to grant the plaintiff’s motion for attorneys’ fees and costs.

For the reasons stated above and in the R&R, the plaintiff’s motion for attorneys’ fees and costs, Docket Item 20, is GRANTED. The Clerk of the Court shall enter judgment against defendant Sharonnda Baxter in the amount of \$5,690, comprising \$5,290 in attorneys’ fees and \$400 in costs. The case is referred back to Judge Roemer for further proceedings consistent with the referral order of November 10, 2020, Docket Item 10.

SO ORDERED.

Dated: March 21, 2022
Buffalo, New York

/s/ Lawrence J. Vilaro
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE